

# House File 915 - Introduced

HOUSE FILE \_\_\_\_\_  
BY McCARTHY and RANTS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act transferring regulatory control of elder group homes,  
2 assisted living homes, and adult day services from the  
3 department of elder affairs to the department of inspections  
4 and appeals.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 2885HH 82  
7 ak/es/88

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1 1 Section 1. Section 231B.1, subsection 1, Code 2007, is  
1 2 amended to read as follows:  
1 3 1. "Department" means the department of ~~elder affairs~~  
1 4 ~~inspections and appeals~~ or the department's designee.  
1 5 Sec. 2. Section 231B.1A, subsection 3, Code 2007, is  
1 6 amended by striking the subsection.  
1 7 Sec. 3. Section 231B.2, subsection 1, unnumbered paragraph  
1 8 1, Code 2007, is amended to read as follows:  
1 9 The department shall establish by rule, in accordance with  
1 10 chapter 17A, minimum standards for certification and  
1 11 monitoring of elder group homes. The department may adopt by  
1 12 reference, with or without amendment, nationally recognized  
1 13 standards and rules for elder group homes. The standards and  
1 14 rules shall be formulated in consultation with ~~the department~~  
1 15 ~~of inspections and appeals~~ affected state agencies and  
1 16 affected industry, professional, and consumer groups; ~~i~~ shall  
1 17 be designed to accomplish the purposes of this chapter; ~~i~~ and  
1 18 shall include but not be limited to rules relating to all of  
1 19 the following:  
1 20 Sec. 4. Section 231B.2, subsection 1, paragraph b, Code  
1 21 2007, is amended to read as follows:  
1 22 b. Requirements that elder group homes furnish the  
1 23 department of ~~elder affairs~~ and the department of ~~inspections~~  
1 24 ~~and appeals~~ with specified information necessary to administer  
1 25 this chapter. All information related to the provider  
1 26 application for an elder group home presented to ~~either~~ the  
1 27 department of ~~inspections and appeals~~ or the department of  
1 28 ~~elder affairs~~ shall be considered a public record pursuant to  
1 29 chapter 22.  
1 30 Sec. 5. Section 231B.2, subsection 2, Code 2007, is  
1 31 amended to read as follows:  
1 32 2. Each elder group home operating in this state shall be  
1 33 certified by the department of ~~inspections and appeals~~.  
1 34 Sec. 6. Section 231B.2, subsection 5, unnumbered paragraph  
1 35 1, Code 2007, is amended to read as follows:  
2 1 The department of ~~inspections and appeals~~ may enter into  
2 2 contracts to provide certification and monitoring of elder  
2 3 group homes. The department of ~~inspections and appeals~~ shall:  
2 4 Sec. 7. Section 231B.2, subsection 6, 7, 9, and 10, Code  
2 5 2007, are amended to read as follows:  
2 6 6. A department, agency, or officer of this state or of  
2 7 any governmental unit shall not pay or approve for payment  
2 8 from public funds any amount to an elder group home for an  
2 9 actual or prospective tenant, unless the program holds a  
2 10 current certificate issued by the department of ~~inspections~~  
2 11 ~~and appeals~~ and meets all current requirements for  
2 12 certification.  
2 13 7. The department shall adopt rules regarding the  
2 14 conducting or operating of another business or activity in the  
2 15 distinct part of the physical structure in which the elder  
2 16 group home is operated, if the business or activity serves  
2 17 persons who are not tenants. The rules shall be developed in  
2 18 consultation with ~~the department of inspections and appeals~~

2 19 affected state agencies and affected industry, professional,  
2 20 and consumer groups.

2 21 9. The department ~~of elder affairs and the department of~~  
2 22 ~~inspections and appeals~~ shall conduct joint training sessions  
2 23 for personnel responsible for conducting monitoring  
2 24 evaluations and complaint investigations of elder group homes.

2 25 10. Certification shall be for two years unless revoked  
2 26 for good cause by the department ~~of inspections and appeals~~.

2 27 Sec. 8. Section 231B.3, subsection 2, Code 2007, is  
2 28 amended to read as follows:

2 29 2. A person who has knowledge that an elder group home is  
2 30 operating without certification shall report the name and  
2 31 address of the home to the department ~~of inspections and~~  
2 32 ~~appeals~~. The department ~~of inspections and appeals~~ shall  
2 33 investigate a report made pursuant to this section.

2 34 Sec. 9. Section 231B.4, Code 2007, is amended to read as  
2 35 follows:

3 1 231B.4 ZONING == FIRE AND SAFETY STANDARDS.

3 2 An elder group home shall be located in an area zoned for  
3 3 single-family or multiple-family housing or in an  
3 4 unincorporated area and shall be constructed in compliance  
3 5 with applicable local housing codes and the rules adopted for  
3 6 the special classification by the state fire marshal. In the  
3 7 absence of local building codes, the facility shall comply  
3 8 with the state plumbing code established pursuant to section  
3 9 135.11 and the state building code established pursuant to  
3 10 section 103A.7 and the rules adopted for the special  
3 11 classification by the state fire marshal. The rules adopted  
3 12 for the special classification by the state fire marshal  
3 13 regarding second floor occupancy shall be adopted in  
3 14 consultation with the department ~~of elder affairs~~ and shall  
3 15 take into consideration the mobility of the tenants.

3 16 Sec. 10. Section 231B.5, subsection 3, Code 2007, is  
3 17 amended to read as follows:

3 18 3. Occupancy agreements and related documents executed by  
3 19 each tenant or tenant's legal representative shall be  
3 20 maintained by the elder group home from the date of execution  
3 21 until three years from the date the occupancy agreement is  
3 22 terminated. A copy of the most current occupancy agreement  
3 23 shall be provided to members of the general public, upon  
3 24 request. Occupancy agreements and related documents shall be  
3 25 made available for on-site inspection to the department ~~of~~  
3 26 ~~inspections and appeals~~ upon request and at reasonable times.

3 27 Sec. 11. Section 231B.6, subsection 1, unnumbered  
3 28 paragraph 1, Code 2007, is amended to read as follows:

3 29 If an elder group home initiates the involuntary transfer  
3 30 of a tenant and the action is not a result of a monitoring  
3 31 evaluation or complaint investigation by the department ~~of~~  
3 32 ~~inspections and appeals~~, and if the tenant or tenant's legal  
3 33 representative contests the transfer, the following procedure  
3 34 shall apply:

3 35 Sec. 12. Section 231B.6, subsection 2, Code 2007, is  
4 1 amended to read as follows:

4 2 2. The department, in consultation with ~~the department of~~  
4 3 ~~inspections and appeals~~ affected state agencies and affected  
4 4 industry, professional, and consumer groups, shall establish  
4 5 by rule, in accordance with chapter 17A, procedures to be  
4 6 followed, including the opportunity for hearing, when the  
4 7 transfer of a tenant results from a monitoring evaluation or  
4 8 complaint investigation conducted by the department ~~of~~  
4 9 ~~inspections and appeals~~.

4 10 Sec. 13. Section 231B.7, Code 2007, is amended to read as  
4 11 follows:

4 12 231B.7 COMPLAINTS.

4 13 1. Any person with concerns regarding the operations or  
4 14 service delivery of an elder group home may file a complaint  
4 15 with the department ~~of inspections and appeals~~. The name of  
4 16 the person who files a complaint with the department ~~of~~  
4 17 ~~inspections and appeals~~ and any personal identifying  
4 18 information of the person or any tenant identified in the  
4 19 complaint shall be kept confidential and shall not be subject  
4 20 to discovery, subpoena, or other means of legal compulsion for  
4 21 its release to a person other than department ~~of inspections~~  
4 22 ~~and appeals~~ employees involved with the complaint.

4 23 2. The department, ~~in cooperation with the department of~~  
4 24 ~~inspections and appeals~~, shall establish procedures for the  
4 25 disposition of complaints received in accordance with this  
4 26 section.

4 27 Sec. 14. Section 231B.8, Code 2007, is amended to read as  
4 28 follows:

4 29 231B.8 INFORMAL REVIEW.

4 30 1. If an elder group home contests the findings of  
4 31 regulatory insufficiencies of a monitoring evaluation or  
4 32 complaint investigation, the program shall submit written  
4 33 information, demonstrating that the program was in compliance  
4 34 with the applicable requirement at the time of the monitoring  
4 35 evaluation or complaint investigation of the regulatory  
5 1 insufficiencies, to the department ~~of inspections and appeals~~  
5 2 for review.

5 3 2. The department ~~of inspections and appeals~~ shall review  
5 4 the written information submitted within ten working days of  
5 5 the receipt of the information. At the conclusion of the  
5 6 review, the department ~~of inspections and appeals~~ may affirm,  
5 7 modify, or dismiss the regulatory insufficiencies. The  
5 8 department ~~of inspections and appeals~~ shall notify the program  
5 9 in writing of the decision to affirm, modify, or dismiss the  
5 10 regulatory insufficiencies, and the reasons for the decision.

5 11 3. In the case of a complaint investigation, the  
5 12 department ~~of inspections and appeals~~ shall also notify the  
5 13 complainant, if known, of the decision and the reasons for the  
5 14 decision.

5 15 Sec. 15. Section 231B.9, Code 2007, is amended to read as  
5 16 follows:

5 17 231B.9 PUBLIC DISCLOSURE OF FINDINGS.

5 18 Upon completion of a monitoring evaluation or complaint  
5 19 investigation of an elder group home by the department ~~of~~  
5 20 ~~inspections and appeals~~ pursuant to this chapter, including  
5 21 the conclusion of all administrative appeals processes, the  
5 22 ~~department of inspections and appeals'~~ department's final  
5 23 findings with respect to compliance by the elder group home  
5 24 with requirements for certification shall be made available to  
5 25 the public in a readily available form and place. Other  
5 26 information relating to an elder group home that is obtained  
5 27 by the department ~~of inspections and appeals~~ which does not  
5 28 constitute the ~~department of inspections and appeals'~~  
5 29 ~~department's~~ final findings from a monitoring evaluation or  
5 30 complaint investigation of the elder group home shall ~~be made~~  
5 31 ~~available to the department of elder affairs upon request to~~  
5 32 ~~facilitate policy decisions, but shall not be made available~~  
5 33 to the public except in proceedings involving the denial,  
5 34 suspension, or revocation of a certificate under this chapter.

5 35 Sec. 16. Section 231B.10, subsection 1, unnumbered  
6 1 paragraph 1, Code 2007, is amended to read as follows:

6 2 The department ~~of inspections and appeals~~ may deny,  
6 3 suspend, or revoke a certificate in any case where the  
6 4 department ~~of inspections and appeals~~ finds that there has  
6 5 been a substantial or repeated failure on the part of the  
6 6 elder group home to comply with this chapter or minimum  
6 7 standards adopted under this chapter or for any of the  
6 8 following reasons:

6 9 Sec. 17. Section 231B.10, subsection 2, Code 2007, is  
6 10 amended to read as follows:

6 11 2. The department ~~of inspections and appeals~~ may as an  
6 12 alternative to denial, suspension, or revocation conditionally  
6 13 issue or continue a certificate dependent upon the performance  
6 14 by the elder group home of reasonable conditions within a  
6 15 reasonable period of time as set by the department ~~of~~  
6 16 ~~inspections and appeals~~ so as to permit the program to  
6 17 commence or continue the operation of the elder group home  
6 18 pending full compliance with this chapter or the rules adopted  
6 19 pursuant to this chapter. If the elder group home does not  
6 20 make diligent efforts to comply with the conditions  
6 21 prescribed, the department ~~of inspections and appeals~~ may,  
6 22 under the proceedings prescribed by this chapter, deny,  
6 23 suspend, or revoke the certificate. An elder group home shall  
6 24 not be operated on a conditional certificate for more than one  
6 25 year.

6 26 Sec. 18. Section 231B.11, Code 2007, is amended to read as  
6 27 follows:

6 28 231B.11 NOTICE == APPEAL == EMERGENCY PROVISIONS.

6 29 1. The denial, suspension, or revocation of a certificate  
6 30 shall be effected by delivering to the applicant or  
6 31 certificate holder by restricted certified mail or by personal  
6 32 service a notice setting forth the particular reasons for such  
6 33 action. Such denial, suspension, or revocation shall become  
6 34 effective thirty days after the mailing or service of the  
6 35 notice, unless the applicant or certificate holder, within  
7 1 such thirty-day period, requests a hearing, in writing, of the  
7 2 department ~~of inspections and appeals~~, in which case the  
7 3 notice shall be deemed to be suspended.

7 4 2. The denial, suspension, or revocation of a certificate  
7 5 may be appealed in accordance with rules adopted by the

7 6 department of inspections and appeals in accordance with  
7 7 chapter 17A.

7 8 3. When the department of inspections and appeals finds  
7 9 that an imminent danger to the health or safety of a tenant of  
7 10 an elder group home exists which requires action on an  
7 11 emergency basis, the department of inspections and appeals may  
7 12 direct removal of all tenants of the elder group home and  
7 13 suspend the certificate prior to a hearing.

7 14 Sec. 19. Section 231B.12, Code 2007, is amended to read as  
7 15 follows:

7 16 231B.12 DEPARTMENT NOTIFIED OF CASUALTIES.

7 17 The department of inspections and appeals shall be notified  
7 18 within twenty-four hours, by the most expeditious means  
7 19 available, of any accident causing substantial injury or death  
7 20 to a tenant, and any substantial fire or natural or other  
7 21 disaster occurring at or near an elder group home.

7 22 Sec. 20. Section 231B.13, Code 2007, is amended to read as  
7 23 follows:

7 24 231B.13 RETALIATION BY ELDER GROUP HOME PROHIBITED.

7 25 An elder group home shall not discriminate or retaliate in  
7 26 any way against a tenant, a tenant's family, or an employee of  
7 27 the elder group home who has initiated or participated in any  
7 28 proceeding authorized by this chapter. An elder group home  
7 29 that violates this section is subject to a penalty as  
7 30 established by administrative rule in accordance with chapter  
7 31 17A, to be assessed and collected by the department of  
7 32 inspections and appeals, paid into the state treasury, and  
7 33 credited to the general fund of the state.

7 34 Sec. 21. Section 231B.14, subsection 2, Code 2007, is  
7 35 amended to read as follows:

8 1 2. Following receipt of notice from the department of  
8 2 inspections and appeals, continued failure or refusal to  
8 3 comply within a prescribed time frame with regulatory  
8 4 requirements that have a direct relationship to the health,  
8 5 safety, or security of elder group home tenants.

8 6 Sec. 22. Section 231B.14, subsection 3, unnumbered  
8 7 paragraph 1, Code 2007, is amended to read as follows:

8 8 Preventing or interfering with or attempting to impede in  
8 9 any way any duly authorized representative of the department  
8 10 of inspections and appeals in the lawful enforcement of this  
8 11 chapter or of the rules adopted pursuant to this chapter. As  
8 12 used in this subsection, "lawful enforcement" includes but is  
8 13 not limited to:

8 14 Sec. 23. Section 231B.15, Code 2007, is amended to read as  
8 15 follows:

8 16 231B.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

8 17 A person establishing, conducting, managing, or operating  
8 18 an elder group home without a certificate is guilty of a  
8 19 serious misdemeanor. Each day of continuing violation after  
8 20 conviction or notice from the department of inspections and  
8 21 appeals by certified mail of a violation shall be considered a  
8 22 separate offense. A person establishing, conducting,  
8 23 managing, or operating an elder group home without a  
8 24 certificate may be temporarily or permanently restrained by a  
8 25 court of competent jurisdiction from such activity in an  
8 26 action brought by the state.

8 27 Sec. 24. Section 231B.17, subsection 1, Code 2007, is  
8 28 amended to read as follows:

8 29 1. The department of inspections and appeals shall collect  
8 30 elder group home certification and related fees. Fees  
8 31 collected and retained pursuant to this section shall be  
8 32 deposited in the general fund of the state.

8 33 Sec. 25. Section 231B.20, Code 2007, is amended to read as  
8 34 follows:

8 35 231B.20 NURSING ASSISTANT AND MEDICATION AIDE ==  
9 1 CERTIFICATION.

9 2 The department of inspections and appeals, in cooperation  
9 3 with other appropriate agencies, shall establish a procedure  
9 4 to allow nursing assistants or medication aides to claim work  
9 5 within an elder group home as credit toward sustaining the  
9 6 nursing assistant's or medication aide's certification.

9 7 Sec. 26. Section 231C.1, subsection 3, Code 2007, is  
9 8 amended by striking the subsection and inserting in lieu  
9 9 thereof the following:

9 10 3. It is the intent of the general assembly that the  
9 11 department promote a social model for assisted living programs  
9 12 and a consultative process to assist with compliance by  
9 13 assisted living programs.

9 14 Sec. 27. Section 231C.2, subsection 3, Code 2007, is  
9 15 amended to read as follows:

9 16 3. "Department" means the department of elder affairs

~~9 17 created in chapter 231 inspections and appeals or the~~  
9 18 department's designee.  
9 19 Sec. 28. Section 231C.3, subsection 1, unnumbered  
9 20 paragraph 1, Code 2007, is amended to read as follows:  
9 21 The department shall establish by rule in accordance with  
9 22 chapter 17A minimum standards for certification and monitoring  
9 23 of assisted living programs. The department may adopt by  
9 24 reference with or without amendment, nationally recognized  
9 25 standards and rules for assisted living programs. The rules  
9 26 shall include specification of recognized accrediting entities  
9 27 and provisions related to dementia-specific programs. The  
9 28 standards and rules shall be formulated in consultation with  
9 29 ~~the department of inspections and appeals affected state~~  
9 30 ~~agencies~~ and affected industry, professional, and consumer  
9 31 groups; ~~i~~ shall be designed to accomplish the purposes of this  
9 32 chapter; ~~i~~ and shall include but are not limited to rules  
9 33 relating to all of the following:  
9 34 Sec. 29. Section 231C.3, subsection 1, paragraph b, Code  
9 35 2007, is amended to read as follows:  
10 1 b. Requirements that assisted living programs furnish the  
10 2 department of elder affairs and the department of inspections  
~~10 3 and appeals~~ with specified information necessary to administer  
10 4 this chapter. All information related to a provider  
10 5 application for an assisted living program submitted to either  
10 6 the department of elder affairs or the department of  
~~10 7 inspections and appeals~~ shall be considered a public record  
10 8 pursuant to chapter 22.  
10 9 Sec. 30. Section 231C.3, subsection 2, Code 2007, is  
10 10 amended to read as follows:  
10 11 2. Each assisted living program operating in this state  
10 12 shall be certified by the department of inspections and  
~~10 13 appeals~~. If an assisted living program is voluntarily  
10 14 accredited by a recognized accrediting entity, the department  
10 15 of inspections and appeals shall certify the assisted living  
10 16 program on the basis of the voluntary accreditation. An  
10 17 assisted living program that is certified by the department of  
~~10 18 inspections and appeals~~ on the basis of voluntary  
10 19 accreditation shall not be subject to payment of the  
10 20 certification fee prescribed in section 231C.18, but shall be  
10 21 subject to an administrative fee as prescribed by rule. An  
10 22 assisted living program certified under this section is exempt  
10 23 from the requirements of section 135.63 relating to  
10 24 certificate of need requirements.  
10 25 Sec. 31. Section 231C.3, subsection 5, unnumbered  
10 26 paragraph 1, Code 2007, is amended to read as follows:  
10 27 The department of inspections and appeals may enter into  
10 28 contracts to provide certification and monitoring of assisted  
10 29 living programs. The department of inspections and appeals  
10 30 shall:  
10 31 Sec. 32. Section 231C.3, subsections 6, 7, 8, 10, and 11,  
10 32 Code 2007, are amended to read as follows:  
10 33 6. The department may also establish by rule in accordance  
10 34 with chapter 17A minimum standards for subsidized and  
10 35 dementia-specific assisted living programs. The rules shall  
11 1 be formulated in consultation with the department of  
~~11 2 inspections and appeals affected state agencies~~ and affected  
11 3 industry, professional, and consumer groups.  
11 4 7. A department, agency, or officer of this state or of  
11 5 any governmental unit shall not pay or approve for payment  
11 6 from public funds any amount to an assisted living program for  
11 7 an actual or prospective tenant, unless the program holds a  
11 8 current certificate issued by the department of inspections  
~~11 9 and appeals~~ and meets all current requirements for  
11 10 certification.  
11 11 8. The department shall adopt rules regarding the  
11 12 conducting or operating of another business or activity in the  
11 13 distinct part of the physical structure in which the assisted  
11 14 living program is provided, if the business or activity serves  
11 15 nontenants. The rules shall be developed in consultation with  
11 16 the department of inspections and appeals affected state  
~~11 17 agencies~~ and affected industry, professional, and consumer  
11 18 groups.  
11 19 10. The department of elder affairs and the department of  
~~11 20 inspections and appeals~~ shall conduct joint training sessions  
11 21 for personnel responsible for conducting monitoring  
11 22 evaluations and complaint investigations of assisted living  
11 23 programs.  
11 24 11. Certification of an assisted living program shall be  
11 25 for two years unless certification is revoked for good cause  
11 26 by the department of inspections and appeals.  
11 27 Sec. 33. Section 231C.4, Code 2007, is amended to read as

11 28 follows:

11 29 231C.4 FIRE AND SAFETY STANDARDS.

11 30 The state fire marshal shall adopt rules, in coordination  
11 31 with the department of elder affairs and the department of  
~~11 32 inspections and appeals~~, relating to the certification and  
11 33 monitoring of the fire and safety standards of certified  
11 34 assisted living programs.

11 35 Sec. 34. Section 231C.5, subsection 3, Code 2007, is  
12 1 amended to read as follows:

12 2 3. Occupancy agreements and related documents executed by  
12 3 each tenant or the tenant's legal representative shall be  
12 4 maintained by the assisted living program in program files  
12 5 from the date of execution until three years from the date the  
12 6 occupancy agreement is terminated. A copy of the most current  
12 7 occupancy agreement shall be provided to members of the  
12 8 general public, upon request. Occupancy agreements and  
12 9 related documents shall be made available for on-site  
12 10 inspection to the department of ~~inspections and appeals~~ upon  
12 11 request and at reasonable times.

12 12 Sec. 35. Section 231C.6, subsection 1, unnumbered  
12 13 paragraph 1, Code 2007, is amended to read as follows:

12 14 If an assisted living program initiates the involuntary  
12 15 transfer of a tenant and the action is not a result of a  
12 16 monitoring evaluation or complaint investigation by the  
12 17 department of ~~inspections and appeals~~, and if the tenant or  
12 18 the tenant's legal representative contests the transfer, the  
12 19 following procedure shall apply:

12 20 Sec. 36. Section 231C.6, subsection 2, Code 2007, is  
12 21 amended to read as follows:

12 22 2. The department, in consultation with ~~the department of~~  
~~12 23 inspections and appeals~~ affected state agencies and affected  
12 24 industry, professional, and consumer groups, shall establish,  
12 25 by rule in accordance with chapter 17A, procedures to be  
12 26 followed, including the opportunity for hearing, when the  
12 27 transfer of a tenant results from a monitoring evaluation or  
12 28 complaint investigation conducted by the department of  
~~12 29 inspections and appeals~~.

12 30 Sec. 37. Section 231C.7, Code 2007, is amended to read as  
12 31 follows:

12 32 231C.7 COMPLAINTS.

12 33 1. Any person with concerns regarding the operations or  
12 34 service delivery of an assisted living program may file a  
12 35 complaint with the department of ~~inspections and appeals~~. The  
13 1 name of the person who files a complaint with the department  
13 2 of ~~inspections and appeals~~ and any personal identifying  
13 3 information of the person or any tenant identified in the  
13 4 complaint shall be kept confidential and shall not be subject  
13 5 to discovery, subpoena, or other means of legal compulsion for  
13 6 its release to a person other than department of ~~inspections~~  
~~13 7 and appeals~~ employees involved with the complaint.

13 8 2. The department, in cooperation with the department of  
~~13 9 inspections and appeals~~, shall establish procedures for the  
13 10 disposition of complaints received in accordance with this  
13 11 section.

13 12 Sec. 38. Section 231C.8, Code 2007, is amended to read as  
13 13 follows:

13 14 231C.8 INFORMAL REVIEW.

13 15 1. If an assisted living program contests the regulatory  
13 16 insufficiencies of a monitoring evaluation or complaint  
13 17 investigation, the program shall submit written information,  
13 18 demonstrating that the program was in compliance with the  
13 19 applicable requirement at the time of the monitoring  
13 20 evaluation or complaint investigation, in support of the  
13 21 contesting of the regulatory insufficiencies, to the  
13 22 department of ~~inspections and appeals~~ for review.

13 23 2. The department of ~~inspections and appeals~~ shall review  
13 24 the written information submitted within ten working days of  
13 25 the receipt of the information. At the conclusion of the  
13 26 review, the department of ~~inspections and appeals~~ may affirm,  
13 27 modify, or dismiss the regulatory insufficiencies. The  
13 28 department of ~~inspections and appeals~~ shall notify the program  
13 29 in writing of the decision to affirm, modify, or dismiss the  
13 30 regulatory insufficiencies, and the reasons for the decision.

13 31 3. In the case of a complaint investigation, the  
13 32 department of ~~inspections and appeals~~ shall also notify the  
13 33 complainant, if known, of the decision and the reasons for the  
13 34 decision.

13 35 Sec. 39. Section 231C.9, Code 2007, is amended to read as  
14 1 follows:

14 2 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

14 3 Upon completion of a monitoring evaluation or complaint

14 4 investigation of an assisted living program by the department  
14 5 ~~of inspections and appeals~~ pursuant to this chapter, including  
14 6 the conclusion of all administrative appeals processes, the  
14 7 ~~department of inspections and appeals'~~ department's final  
14 8 findings with respect to compliance by the assisted living  
14 9 program with requirements for certification shall be made  
14 10 available to the public in a readily available form and place.  
14 11 Other information relating to an assisted living program that  
14 12 is obtained by the department ~~of inspections and appeals~~ which  
14 13 does not constitute the ~~department of inspections and appeals'~~  
14 14 ~~department's~~ final findings from a monitoring evaluation or  
14 15 complaint investigation of the assisted living program shall  
14 16 ~~be made available to the department of elder affairs upon~~  
14 17 ~~request in order to facilitate policy decisions, but shall not~~  
14 18 be made available to the public except in proceedings  
14 19 involving the denial, suspension, or revocation of a  
14 20 certificate under this chapter.

14 21 Sec. 40. Section 231C.10, subsection 1, unnumbered  
14 22 paragraph 1, Code 2007, is amended to read as follows:

14 23 The department ~~of inspections and appeals~~ may deny,  
14 24 suspend, or revoke a certificate in any case where the  
14 25 department ~~of inspections and appeals~~ finds that there has  
14 26 been a substantial or repeated failure on the part of the  
14 27 assisted living program to comply with this chapter or the  
14 28 rules, or minimum standards adopted under this chapter, or for  
14 29 any of the following reasons:

14 30 Sec. 41. Section 231C.10, subsection 2, Code 2007, is  
14 31 amended to read as follows:

14 32 2. The department ~~of inspections and appeals~~ may as an  
14 33 alternative to denial, suspension, or revocation conditionally  
14 34 issue or continue a certificate dependent upon the performance  
14 35 by the assisted living program of reasonable conditions within  
15 1 a reasonable period of time as set by the department ~~of~~  
15 2 ~~inspections and appeals~~ so as to permit the program to  
15 3 commence or continue the operation of the program pending full  
15 4 compliance with this chapter or the rules adopted pursuant to  
15 5 this chapter. If the assisted living program does not make  
15 6 diligent efforts to comply with the conditions prescribed, the  
15 7 department ~~of inspections and appeals~~ may, under the  
15 8 proceedings prescribed by this chapter, suspend, or revoke the  
15 9 certificate. An assisted living program shall not be operated  
15 10 on a conditional certificate for more than one year.

15 11 Sec. 42. Section 231C.11, Code 2007, is amended to read as  
15 12 follows:

15 13 231C.11 NOTICE == APPEAL == EMERGENCY PROVISIONS.

15 14 1. The denial, suspension, or revocation of a certificate  
15 15 shall be effected by delivering to the applicant or  
15 16 certificate holder by restricted certified mail or by personal  
15 17 service a notice setting forth the particular reasons for such  
15 18 action. Such denial, suspension, or revocation shall become  
15 19 effective thirty days after the mailing or service of the  
15 20 notice, unless the applicant or certificate holder, within  
15 21 such thirty-day period, requests a hearing, in writing, of the  
15 22 department ~~of inspections and appeals~~, in which case the  
15 23 notice shall be deemed to be suspended.

15 24 2. The denial, suspension, or revocation of a certificate  
15 25 may be appealed in accordance with rules adopted by the  
15 26 department ~~of inspections and appeals~~ in accordance with  
15 27 chapter 17A.

15 28 3. When the department ~~of inspections and appeals~~ finds  
15 29 that an imminent danger to the health or safety of tenants of  
15 30 an assisted living program exists which requires action on an  
15 31 emergency basis, the department ~~of inspections and appeals~~ may  
15 32 direct removal of all tenants of an assisted living program  
15 33 and suspend the certificate prior to a hearing.

15 34 Sec. 43. Section 231C.12, Code 2007, is amended to read as  
15 35 follows:

16 1 231C.12 DEPARTMENT NOTIFIED OF CASUALTIES.

16 2 The department ~~of inspections and appeals~~ shall be notified  
16 3 within twenty-four hours, by the most expeditious means  
16 4 available, of any accident causing substantial injury or  
16 5 death, and any substantial fire or natural or other disaster  
16 6 occurring at or near an assisted living program.

16 7 Sec. 44. Section 231C.13, Code 2007, is amended to read as  
16 8 follows:

16 9 231C.13 RETALIATION BY ASSISTED LIVING PROGRAM PROHIBITED.

16 10 An assisted living program shall not discriminate or  
16 11 retaliate in any way against a tenant, tenant's family, or an  
16 12 employee of the program who has initiated or participated in  
16 13 any proceeding authorized by this chapter. An assisted living  
16 14 program that violates this section is subject to a penalty as

16 15 established by administrative rule in accordance with chapter  
16 16 17A, to be assessed and collected by the department ~~of~~  
~~16 17 inspections and appeals~~, paid into the state treasury, and  
16 18 credited to the general fund of the state.

16 19 Sec. 45. Section 231C.14, subsection 2, Code 2007, is  
16 20 amended to read as follows:

16 21 2. Following receipt of notice from the department ~~of~~  
~~16 22 inspections and appeals~~, continued failure or refusal to  
16 23 comply within a prescribed time frame with regulatory  
16 24 requirements that have a direct relationship to the health,  
16 25 safety, or security of program tenants.

16 26 Sec. 46. Section 231C.14, subsection 3, unnumbered  
16 27 paragraph 1, Code 2007, is amended to read as follows:

16 28 Preventing or interfering with or attempting to impede in  
16 29 any way any duly authorized representative of the department  
16 30 ~~of inspections and appeals~~ in the lawful enforcement of this  
16 31 chapter or of the rules adopted pursuant to this chapter. As  
16 32 used in this subsection, "lawful enforcement" includes but is  
16 33 not limited to:

16 34 Sec. 47. Section 231C.15, Code 2007, is amended to read as  
16 35 follows:

17 1 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

17 2 A person establishing, conducting, managing, or operating  
17 3 any assisted living program without a certificate is guilty of  
17 4 a serious misdemeanor. Each day of continuing violation after  
17 5 conviction or notice from the department ~~of inspections and~~  
~~17 6 appeals~~ by certified mail of a violation shall be considered a  
17 7 separate offense or chargeable offense. A person  
17 8 establishing, conducting, managing, or operating an assisted  
17 9 living program without a certificate may be temporarily or  
17 10 permanently restrained by a court of competent jurisdiction  
17 11 from such activity in an action brought by the state.

17 12 Sec. 48. Section 231C.16, Code 2007, is amended to read as  
17 13 follows:

17 14 231C.16 NURSING ASSISTANT AND MEDICATION AIDE ==  
17 15 CERTIFICATION.

17 16 The department ~~of inspections and appeals~~, in cooperation  
17 17 with other appropriate agencies, shall establish a procedure  
17 18 to allow nursing assistants or medication aides to claim work  
17 19 within an assisted living program as credit toward sustaining  
17 20 the nursing assistant's or medication aide's certification.

17 21 Sec. 49. Section 231C.18, subsection 1, Code 2007, is  
17 22 amended to read as follows:

17 23 1. The department ~~of inspections and appeals~~ shall collect  
17 24 assisted living program certification and related fees. An  
17 25 assisted living program that is certified by the department ~~of~~  
~~17 26 inspections and appeals~~ on the basis of voluntary  
17 27 accreditation by a recognized accrediting entity shall not be  
17 28 subject to payment of the certification fee, but shall be  
17 29 subject to an administrative fee as prescribed by rule. Fees  
17 30 collected and retained pursuant to this section shall be  
17 31 deposited in the general fund of the state.

17 32 Sec. 50. Section 231D.1, subsection 3, Code 2007, is  
17 33 amended to read as follows:

17 34 3. "Department" means the department of ~~elder affairs~~  
~~17 35 created in chapter 231 inspections and appeals~~.

18 1 Sec. 51. Section 231D.2, subsection 2, Code 2007, is  
18 2 amended by striking the subsection.

18 3 Sec. 52. Section 231D.2, subsections 3 and 4, Code 2007,  
18 4 are amended to read as follows:

18 5 3. The department shall establish, by rule in accordance  
18 6 with chapter 17A, a program for certification and monitoring  
18 7 of and complaint investigations related to adult day services  
18 8 programs. The department, in establishing minimum standards  
18 9 for adult day services programs, may adopt by rule in  
18 10 accordance with chapter 17A, nationally recognized standards  
18 11 for adult day services programs. The rules shall include  
18 12 specification of recognized accrediting entities. The rules  
18 13 shall include a requirement that sufficient staffing be  
18 14 available at all times to fully meet a participant's  
18 15 identified needs. The rules shall include a requirement that  
18 16 no fewer than two staff persons who monitor participants as  
18 17 indicated in each participant's service plan shall be awake  
18 18 and on duty during the hours of operation when two or more  
18 19 participants are present. The rules and minimum standards  
18 20 adopted shall be formulated in consultation with ~~the~~  
~~18 21 department of inspections and appeals affected state agencies~~  
18 22 and affected industry, professional, and consumer groups and  
18 23 shall be designed to accomplish the purpose of this chapter.

18 24 4. The department may establish by administrative rule, in  
18 25 accordance with chapter 17A, specific rules related to minimum



18 26 standards for dementia-specific adult day services programs.  
18 27 The rules shall be formulated in consultation with ~~the~~  
~~18 28 department of inspections and appeals affected state agencies~~  
18 29 and affected industry, professional, and consumer groups.  
18 30 Sec. 53. Section 231D.3, subsections 1, 3, 4, 5, 6, and 7,  
18 31 Code 2007, are amended to read as follows:  
18 32 1. A person or governmental unit acting severally or  
18 33 jointly with any other person or governmental unit shall not  
18 34 establish or operate an adult day services program and shall  
18 35 not represent an adult day services program to the public as  
19 1 certified unless and until the program is certified pursuant  
19 2 to this chapter. If an adult day services program is  
19 3 voluntarily accredited by a recognized accrediting entity with  
19 4 specific adult day services standards, the department of  
~~19 5 inspections and appeals~~ shall accept voluntary accreditation  
19 6 as the basis for certification by the department. The owner  
19 7 or manager of a certified adult day services program shall  
19 8 comply with the rules adopted by the department for an adult  
19 9 day services program.  
19 10 3. An adult day services program that has been certified  
19 11 by the department of ~~inspections and appeals~~ shall not alter  
19 12 the program, operation, or adult day services for which the  
19 13 program is certified in a manner that affects continuing  
19 14 certification without prior approval of the department of  
~~19 15 inspections and appeals~~. The department of ~~inspections and~~  
~~19 16 appeals~~ shall specify, by rule, alterations that are subject  
19 17 to prior approval.  
19 18 4. A department, agency, or officer of this state or of  
19 19 any governmental unit shall not pay or approve for payment  
19 20 from public funds any amount to an adult day services program  
19 21 for an actual or prospective participant, unless the program  
19 22 holds a current certificate issued by the department of  
~~19 23 inspections and appeals~~ and meets all current requirements for  
19 24 certification.  
19 25 5. The department shall adopt rules regarding the  
19 26 conducting or operating of another business or activity in the  
19 27 distinct part of the physical structure in which the adult day  
19 28 services program is provided, if the business or activity  
19 29 serves persons who are not participants. The rules shall be  
19 30 developed in consultation with ~~the department of inspections~~  
~~19 31 and appeals affected state agencies~~ and affected industry,  
19 32 professional, and consumer groups.  
19 33 6. The department of ~~elder affairs and the department of~~  
~~19 34 inspections and appeals~~ shall conduct joint training sessions  
19 35 for personnel responsible for conducting monitoring  
20 1 evaluations and complaint investigations of adult day services  
20 2 programs.  
20 3 7. Certification of an adult day services program shall be  
20 4 for two years unless revoked for good cause by the department  
20 5 of ~~inspections and appeals~~.  
20 6 Sec. 54. Section 231D.4, subsection 1, Code 2007, is  
20 7 amended to read as follows:  
20 8 1. Certificates for adult day services programs shall be  
20 9 obtained from the department of ~~inspections and appeals~~.  
20 10 Applications shall be upon such forms and shall include such  
20 11 information as the department of ~~inspections and appeals~~ may  
20 12 reasonably require, which may include affirmative evidence of  
20 13 compliance with applicable statutes and local ordinances.  
20 14 Each application for certification shall be accompanied by the  
20 15 appropriate fee.  
20 16 Sec. 55. Section 231D.4, subsection 2, paragraph a, Code  
20 17 2007, is amended to read as follows:  
20 18 a. The department of ~~inspections and appeals~~ shall collect  
20 19 adult day services certification fees. The fees shall be  
20 20 deposited in the general fund of the state.  
20 21 Sec. 56. Section 231D.5, subsection 1, unnumbered  
20 22 paragraph 1, Code 2007, is amended to read as follows:  
20 23 The department of ~~inspections and appeals~~ may deny,  
20 24 suspend, or revoke certification if the department of  
~~20 25 inspections and appeals~~ finds that there has been a  
20 26 substantial or repeated failure on the part of the adult day  
20 27 services program to comply with this chapter or the rules or  
20 28 minimum standards adopted pursuant to this chapter, or for any  
20 29 of the following reasons:  
20 30 Sec. 57. Section 231D.5, subsection 3, Code 2007, is  
20 31 amended to read as follows:  
20 32 3. In the case of a certificate applicant or existing  
20 33 certificate holder which is an entity other than an  
20 34 individual, the department of ~~inspections and appeals~~ may  
20 35 deny, suspend, or revoke a certificate if any individual who  
21 1 is in a position of control or is an officer of the entity

21 2 engages in any act or omission proscribed by this section.  
21 3 Sec. 58. Section 231D.6, Code 2007, is amended to read as  
21 4 follows:

21 5 231D.6 NOTICE == APPEAL == EMERGENCY PROVISIONS.

21 6 1. The denial, suspension, or revocation of a certificate  
21 7 shall be effected by delivering to the applicant or  
21 8 certificate holder by restricted certified mail or by personal  
21 9 service a notice setting forth the particular reasons for the  
21 10 action. The denial, suspension, or revocation shall become  
21 11 effective thirty days after the mailing or service of the  
21 12 notice, unless the applicant or certificate holder, within the  
21 13 thirty-day period, requests a hearing, in writing, of the  
21 14 department of inspections and appeals, in which case the  
21 15 notice shall be deemed to be suspended.

21 16 2. The denial, suspension, or revocation of a certificate  
21 17 may be appealed in accordance with rules adopted by the  
21 18 department of inspections and appeals in accordance with  
21 19 chapter 17A.

21 20 3. When the department of inspections and appeals finds  
21 21 that an immediate danger to the health or safety of  
21 22 participants in an adult day services program exists which  
21 23 requires action on an emergency basis, the department of  
21 24 inspections and appeals may direct the removal of all  
21 25 participants in the adult day services program and suspend the  
21 26 certificate prior to a hearing.

21 27 Sec. 59. Section 231D.7, Code 2007, is amended to read as  
21 28 follows:

21 29 231D.7 CONDITIONAL OPERATION.

21 30 The department of inspections and appeals may, as an  
21 31 alternative to denial, suspension, or revocation of  
21 32 certification under section 231D.5, conditionally issue or  
21 33 continue certification dependent upon the performance by the  
21 34 adult day services program of reasonable conditions within a  
21 35 reasonable period of time as prescribed by the department of  
22 1 inspections and appeals so as to permit the program to  
22 2 commence or continue the operation of the program pending full  
22 3 compliance with this chapter or the rules adopted pursuant to  
22 4 this chapter. If the adult day services program does not make  
22 5 diligent efforts to comply with the conditions prescribed, the  
22 6 department of inspections and appeals may, under the  
22 7 proceedings prescribed by this chapter, suspend or revoke the  
22 8 certificate. An adult day services program shall not be  
22 9 operated under conditional certification for more than one  
22 10 year.

22 11 Sec. 60. Section 231D.8, Code 2007, is amended to read as  
22 12 follows:

22 13 231D.8 DEPARTMENT NOTIFIED OF CASUALTIES.

22 14 The department of inspections and appeals shall be notified  
22 15 within twenty-four hours, by the most expeditious means  
22 16 available, of any accident causing substantial injury or  
22 17 death, and any substantial fire or natural or other disaster  
22 18 occurring at or near an adult day services program.

22 19 Sec. 61. Section 231D.9, Code 2007, is amended to read as  
22 20 follows:

22 21 231D.9 COMPLAINTS AND CONFIDENTIALITY.

22 22 1. A person with concerns regarding the operations or  
22 23 service delivery of an adult day services program may file a  
22 24 complaint with the department of inspections and appeals. The  
22 25 name of the person who files a complaint with the department  
22 26 of inspections and appeals and any personal identifying  
22 27 information of the person or any participant identified in the  
22 28 complaint shall be kept confidential and shall not be subject  
22 29 to discovery, subpoena, or other means of legal compulsion for  
22 30 its release to a person other than employees of the department  
22 31 of inspections and appeals involved in the investigation of  
22 32 the complaint.

22 33 2. The department, in cooperation with the department of  
22 34 inspections and appeals, shall establish procedures for the  
22 35 disposition of complaints received in accordance with this  
23 1 section.

23 2 Sec. 62. Section 231D.9A, Code 2007, is amended to read as  
23 3 follows:

23 4 231D.9A INFORMAL REVIEW.

23 5 1. If an adult day services program contests the findings  
23 6 of regulatory insufficiencies of a monitoring evaluation or  
23 7 complaint investigation, the program shall submit written  
23 8 information, demonstrating that the program was in compliance  
23 9 with the applicable requirement at the time of the monitoring  
23 10 evaluation or complaint investigation, to the department of  
23 11 inspections and appeals for review.

23 12 2. The department of inspections and appeals shall review

23 13 the written information submitted within ten working days of  
23 14 the receipt of the information. At the conclusion of the  
23 15 review, the department of ~~inspections and appeals~~ may affirm,  
23 16 modify, or dismiss the regulatory insufficiencies. The  
23 17 department of ~~inspections and appeals~~ shall notify the program  
23 18 in writing of the decision to affirm, modify, or dismiss the  
23 19 regulatory insufficiencies, and the reasons for the decision.

23 20 3. In the case of a complaint investigation, the  
23 21 department of ~~inspections and appeals~~ shall also notify the  
23 22 complainant, if known, of the decision and the reasons for the  
23 23 decision.

23 24 Sec. 63. Section 231D.10, Code 2007, is amended to read as  
23 25 follows:

23 26 231D.10 PUBLIC DISCLOSURE OF FINDINGS.

23 27 Upon completion of a monitoring evaluation or complaint  
23 28 investigation of an adult day services program by the  
23 29 department of ~~inspections and appeals~~ pursuant to this  
23 30 chapter, including the conclusion of all administrative  
23 31 appeals processes, the department's final findings with  
23 32 respect to compliance by the adult day services program with  
23 33 requirements for certification shall be made available to the  
23 34 public in a readily available form and place. Other  
23 35 information relating to an adult day services program that is  
24 1 obtained by the department of ~~inspections and appeals~~ which  
24 2 does not constitute the department's final findings from a  
24 3 monitoring evaluation or complaint investigation of the adult  
24 4 day services program shall ~~be made available to the department~~  
24 5 ~~upon request to facilitate policy decisions, but shall not be~~  
24 6 made available to the public except in proceedings involving  
24 7 the denial, suspension, or revocation of a certificate under  
24 8 this chapter.

24 9 Sec. 64. Section 231D.11, subsection 1, Code 2007, is  
24 10 amended to read as follows:

24 11 1. A person establishing, conducting, managing, or  
24 12 operating an adult day services program without a certificate  
24 13 is guilty of a serious misdemeanor. Each day of continuing  
24 14 violation after conviction or notice from the department of  
24 15 ~~inspections and appeals~~ by certified mail of a violation shall  
24 16 be considered a separate offense or chargeable offense. A  
24 17 person establishing, conducting, managing, or operating an  
24 18 adult day services program without a certificate may be  
24 19 temporarily or permanently restrained by a court of competent  
24 20 jurisdiction from such activity in an action brought by the  
24 21 state.

24 22 Sec. 65. Section 231D.11, subsection 2, paragraph c,  
24 23 unnumbered paragraph 1, Code 2007, is amended to read as  
24 24 follows:

24 25 Preventing or interfering with or attempting to impede in  
24 26 any way any duly authorized representative of the department  
24 27 of ~~inspections and appeals~~ in the lawful enforcement of this  
24 28 chapter or of the rules adopted pursuant to this chapter. As  
24 29 used in this paragraph, "lawful enforcement" includes but is  
24 30 not limited to:

24 31 Sec. 66. Section 231D.12, Code 2007, is amended to read as  
24 32 follows:

24 33 231D.12 RETALIATION BY ADULT DAY SERVICES PROGRAM  
24 34 PROHIBITED.

24 35 1. An adult day services program shall not discriminate or  
25 1 retaliate in any way against a participant, participant's  
25 2 family, or an employee of the program who has initiated or  
25 3 participated in any proceeding authorized by this chapter. An  
25 4 adult day services program that violates this section is  
25 5 subject to a penalty as established by administrative rule, to  
25 6 be assessed and collected by the department of ~~inspections and~~  
25 7 ~~appeals~~, paid into the state treasury, and credited to the  
25 8 general fund of the state.

25 9 2. Any attempt to discharge a participant from an adult  
25 10 day services program by whom or upon whose behalf a complaint  
25 11 has been submitted to the department of ~~inspections and~~  
25 12 ~~appeals~~ under section 231D.9, within ninety days after the  
25 13 filing of the complaint or the conclusion of any proceeding  
25 14 resulting from the complaint, shall raise a rebuttable  
25 15 presumption that the action was taken by the program in  
25 16 retaliation for the filing of the complaint, except in  
25 17 situations in which the participant is discharged due to  
25 18 changes in health status which exceed the level of care  
25 19 offered by the adult day services program or in other  
25 20 situations as specified by rule.

25 21 Sec. 67. Section 231D.13, Code 2007, is amended to read as  
25 22 follows:

25 23 231D.13 NURSING ASSISTANT AND MEDICATION AIDE ==

25 24 CERTIFICATION.

25 25     The department ~~of inspections and appeals~~, in cooperation  
25 26 with other appropriate agencies, shall establish a procedure  
25 27 to allow nursing assistants or medication aides to claim work  
25 28 within adult day services programs as credit toward sustaining  
25 29 the nursing assistant's or medication aide's certification.

25 30     Sec. 68. Section 231D.15, Code 2007, is amended to read as  
25 31 follows:

25 32     231D.15 FIRE AND SAFETY STANDARDS.

25 33     The state fire marshal shall adopt rules, in coordination  
25 34 with the department ~~of elder affairs and the department of~~  
25 35 ~~inspections and appeals~~, relating to the certification and  
26 1 monitoring of the fire and safety standards of adult day  
26 2 services programs.

26 3     Sec. 69. Section 231D.17, subsection 3, Code 2007, is  
26 4 amended to read as follows:

26 5     3. Written contractual agreements and related documents  
26 6 executed by each participant or participant's legal  
26 7 representative shall be maintained by the adult day services  
26 8 program in program files from the date of execution until  
26 9 three years from the date the written contractual agreement is  
26 10 terminated. A copy of the most current written contractual  
26 11 agreement shall be provided to members of the general public,  
26 12 upon request. Written contractual agreements and related  
26 13 documents shall be made available for on-site inspection to  
26 14 the department ~~of inspections and appeals~~ upon request and at  
26 15 reasonable times.

26 16     Sec. 70. Section 231D.18, subsection 1, unnumbered  
26 17 paragraph 1, Code 2007, is amended to read as follows:

26 18     If an adult day services program initiates the involuntary  
26 19 transfer of a participant and the action is not a result of a  
26 20 monitoring evaluation or complaint investigation by the  
26 21 department ~~of inspections and appeals~~, and if the participant  
26 22 or participant's legal representative contests the transfer,  
26 23 the following procedure shall apply:

26 24     Sec. 71. Section 231D.18, subsection 2, Code 2007, is  
26 25 amended to read as follows:

26 26     2. The department, in consultation with ~~the department of~~  
26 27 ~~inspections and appeals~~ affected state agencies and affected  
26 28 industry, professional, and consumer groups, shall establish  
26 29 by rule, in accordance with chapter 17A, procedures to be  
26 30 followed, including the opportunity for hearing, when the  
26 31 transfer of a participant results from a monitoring evaluation  
26 32 or complaint investigation conducted by the department ~~of~~  
26 33 ~~inspections and appeals~~.

26 34     Sec. 72. ADMINISTRATIVE RULES == TRANSITION PROVISIONS.

26 35     1. Any rule, regulation, form, order, or directive  
27 1 promulgated by the department of elder affairs and in effect  
27 2 on the effective date of this Act shall continue in full force  
27 3 and effect until amended, repealed, or supplemented by  
27 4 affirmative action of the department of inspections and  
27 5 appeals under the duties and powers of the department of  
27 6 inspections and appeals as established in this Act and under  
27 7 the procedure established in subsection 2.

27 8     Any license, certification, or permit issued by the  
27 9 department of elder affairs and in effect on the effective  
27 10 date of this Act shall continue in full force and effect until  
27 11 expiration or renewal.

27 12     2. In regard to updating references and format in the Iowa  
27 13 administrative code in order to correspond to the  
27 14 restructuring of state government as established in this Act,  
27 15 the administrative rules coordinator and the administrative  
27 16 rules review committee, in consultation with the  
27 17 administrative code editor, shall jointly develop a schedule  
27 18 for the necessary updating of the Iowa administrative code.

27 19                     EXPLANATION

27 20     This bill provides the department of inspections and  
27 21 appeals with regulatory control of elder group homes, assisted  
27 22 living programs, and adult day services for licensing and  
27 23 monitoring purposes. The bill eliminates regulatory control  
27 24 over such programs and facilities by the department of elder  
27 25 affairs. The bill also provide transitional provisions for  
27 26 administrative rules.

27 27 LSB 2885HH 82

27 28 ak:nh/es/88.1